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EXAMINER

BENGZON, GREG C

ART UNIT

PAPER NUMBER

2144

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,724

Applicant(s)

LAMBERTON ET AL.

Examiner

Greg Bengzon

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2144

DETAILED ACTION

This application has been examined. Claims 1,2,9 - 20 are pending. Claims 1, 2, 15, and 16 have been amended. Claims 3-8 have been cancelled.

Priority

This application claims benefit of priority from EPO Application 00480102.3 dated November 14, 2000.

The effective date of the subject matter of the claims in this application is November 14, 2000.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2, 9 -12, 14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levi (US Patent 6636983) in view of Rowland (US Patent 6405318).

Art Unit: 2144

With respect to Claim 1, Levi disclosed (Currently Amended) A method comprising: enabling surveillance of a computer-like device connected to a communications network including a Network Surveillance Server (NSS), (Levi – Column 3 Lines 55-65, Column 4 Lines 1-40) said network including the steps of: upon joining said communications network, said computer-like device logging-in to said NSS; (Levi – Figures 2 thru 4, Column 8 Lines 10-65) discovering at least one said NSS within said communications network; (Levi – Column 12 Lines 20-50) selecting one of said at least one NSS to perform the surveillance of said computer-like device; (Column 5 Lines 40-45) sending credentials to said selected NSS; (Column 6 Lines 25-35) thereby, if accepted by said selected NSS completing log-in; however, if not accepted; aborting log-in; (Column 12 Lines 45) said NSS polling, said computer-like device while connected on said communications network, (Figure 16 Column 32 Lines 40-55) said polling step including said NSS determining if said computer-like device responds, (Column 4 Lines 20-45, CX 32 Lines 30-35) and if so, collecting information about said computer-like device (Column 8 Lines 10-65) and a registered user of said computer-like device, said collecting step being performed on top of said polling step and said checking step; (Column 4 Lines 20-45) said NSS issuing an alarm to a central surveillance unit if said computer-like device fails responding to polling; (Levi – Column 32 Lines 20-54, Column 33 Lines 1-30) and allowing said computer-like device to be watched by NSS while being connected to said communications network. (Levi – Column 3 Lines 55-65, Column 4 Lines 1-40)

With respect to Claim 1, Levi did not disclose of the method of Claim 1 comprising of said computer-like device logging-out from said NSS prior to leaving said communications network. Levi did not disclose wherein prior to leaving said communications network, when it is desired to leave said communications network, said computer-like device sending credentials to said selected NSS, thereby, if log-out is accepted by said NSS stops polling, said computer-like device thus completing log-out; however, if log-out is not accepted, said NSS keeps polling, said computer-like device thus failing to complete log-out; said computer-like device logging-out from said NSS.

With respect to Claim 1, Levi did not disclose of the method of Claim 1 comparing if said collected information matches records, in said NSS, about said computer-like device and said registered user, said comparing-step being performed on top of said polling step and said checking step.

Rowland disclosed an intrusion detection system that monitors the user behavior in real time and compares said behavior according to a previously determined user profile indicating said user's normal behavior. (Rowland – Figure 5, Column 2 Lines 40-65, Column 7 Lines 40-55) In addition to session monitoring, Rowland disclosed of users logging out, and of a logout anomaly detector that would indicate if the user has logged off normally or otherwise, and issues alerts to the network administrator if any abnormal conditions are found. (Rowland - Figures 1-5B, Column 5 Lines 40-65,

Art Unit: 2144

Column 12 Lines 50-65) The logout anomaly detector includes polling the network device to determine the status of the logout process. (Column 10 Lines 50-55)

Rowland disclosed the features of the invention as shown below.

With respect to Claim 1, Rowland disclosed the method of Claim 1 comprising of said computer-like device logging-out from said NSS prior to leaving said communications network. (Rowland- Figures 1-5B, Column 5 Lines 40-65, Column 10 Lines 50-55) Rowland disclosed wherein prior to leaving said communications network, when it is desired to leave said communications network, said computer-like device sending credentials to said selected NSS, thereby, if log-out is accepted by said NSS stops polling, said computer-like device thus completing log-out; however, if log-out is not accepted, said NSS keeps polling, said computer-like device thus failing to complete log-out; said computer-like device logging-out from said NSS. (Rowland - Column 10 Lines 50-55)

With respect to Claim 1, Rowland disclosed the method of Claim 1 comparing if said collected information matches records, in said NSS, about said computer-like device and said registered user, said comparing-step being performed on top of said polling step and said checking step. (Rowland – Column 2 Lines 20-35, Column 3 Lines 50-65, Column 9 Lines 20-50)

Levi and Rowland are analogous art because they present concepts and practices regarding network monitoring for detecting abnormal activity in a network device. The Examiner respectfully suggests that it would have been obvious to a

Art Unit: 2144

person of ordinary skill in the art to combine the teachings of Rowland into the method of Levi, such that 1) the user is enabled to complete a logout process and such that the system is enabled to detect an abnormal logout condition, and 2) the method of Levi is able to compare real-time user behavior with previously established normal behavior.

The suggested motivation for doing so would be, as Rowland suggests, by comparing the user behavior to the dynamically built user profile, false alarms for abnormal activity (such as a device being incorrectly tagged as 'stolen' due to abnormal logout conditions) are reduced. (Rowland Abstract)

With respect to Claim 2, the combination of Levi and Rowland disclosed the method according to claim 1, wherein there are a plurality of more than one said NSS present in said communications network. (Levi - Column 5 Lines 40-50)

With respect to Claim 9, the combination of Levi and Rowland disclosed a method according to claim 1, wherein said communications network is an IP network and said polling step utilizes the IP 'PING' command. (Levi - Column 32 Lines 40-60)

With respect to Claim 10, the combination of Levi and Rowland disclosed a method according to claim 1, wherein said communications network is an IP network

Art Unit: 2144

and said polling step utilizes the IP Address Resolution Protocol (ARP). (Levi - Column 32 Lines 40-60)

With respect to Claim 11, the combination of Levi and Rowland disclosed a method according to claim 1, wherein said computer-like device is a mobile device. (Levi - Figure 11, Column 20 Lines 40-60)

With respect to Claim 12, the combination of Levi and Rowland disclosed a method according to claim 1, wherein said computer-like device is voice enabled. (Levi - Figure 11, Column 20 Lines 40-60)

With respect to Claim 14, the combination of Levi and Rowland disclosed a method according to claim 1, wherein said collected information about said computer-like device includes: a current geographic location; and an identification of a portal through which said communications network is accessed. (Levi - Column 6 Lines 25-60)

Art Unit: 2144

With respect to Claim 16, the Applicant claims a network surveillance system for carrying out the method according to Claim 1. Claim 16 is rejected on the same basis as Claim 1.

With respect to Claim 17, the Applicant claims a computer-like readable medium for carrying out the method according to Claim 1. Claim 17 is rejected on the same basis as Claim 1.

With respect to Claim 18, the Applicant claims an article of manufacture for carrying out the method according to Claim 1. Claim 18 is rejected on the same basis as Claim 1.

With respect to Claim 19, the Applicant claims a program storage device readable by machine for carrying out the method according to Claim 1. Claim 19 is rejected on the same basis as Claim 1.

With respect to Claim 20, the Applicant claims a computer program product for carrying out the method according to Claim 16. Claim 20 is rejected on the same basis as Claim 1 and 16.

Art Unit: 2144

Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levi (US Patent 6636983) in view of Rowland (US Patent 6405318) as applied to Claims 1-12, 14, and 16-20 above, and further in view of Lambert et al. (US Patent 6367016), hereinafter referred to as Lambert .

While the combined teachings of Levi and Rowland , when applied together, are enough to substantially disclose the invention as described in Claims 13 and 15, the combination of Levi and Rowland did not disclose the collection of biometric and personal credentials as follows:

With respect to Claim 13, Levi and Rowland did not disclose a method according to claim 1, wherein said collected information about said registered user includes: a typing speed over a keyboard; a voice intonation.

With respect to Claim 15, Levi and Rowland did not disclose a method according to 1, claim, wherein said credentials includes: knowing a personal identification number (PIN); knowing a password; and possessing a token or smartcard.

Lambert disclosed of a method of controlling access to a network comprising of collecting biometric data in addition to the combination of passwords, PINs and smartcards in order to verify the identity and determine the access level of the user.

Art Unit: 2144

Lambert uses various machine readers to collect said user information. (Lambert - Column 3 Lines 25-50, Column 4 Lines 50-60)

Levi, Rowland and Lambert are analogous art because they present concepts and practices regarding collection of unique or secret personal information from the user for network and device security purposes. The Examiner respectfully suggests that it would have been obvious to a person of ordinary skill in the art to combine the teachings of Lambert into the combined teachings of Levi and Rowland. The said combination would allow the user validator of Levi (Column 12 Lines 35-45) to permit entry upon verifying static logon credentials such as passwords and PINs. Furthermore the said combination would allow for collection of real-time information pertaining to user behavior, such as typing speed and voice intonation, for comparison with previously determined behavioral patterns. The suggested motivation for doing so would be, as Lambert suggests, to take advantage of smartcard technology which by incorporating within it active data processing and storage facilities, provides security and flexibility. (Column 1 Lines 25-40)

With respect to Claim 13, the combination of Levi, Rowland, and Lambert disclosed a method according to claim 1, wherein said collected information about said registered user includes: a typing speed over a keyboard; a voice intonation. (Lambert - Column 3 Lines 25-50, Column 4 Lines 50-60)

With respect to Claim 15, the combination of Levi, Rowland, and Lambert disclosed a method according to 1, claim, wherein said credentials includes: knowing a personal identification number (PIN); knowing a password; and possessing a token or smartcard. (Lambert - Column 3 Lines 25-50, Column 4 Lines 50-60)

Response to Arguments

Applicant's arguments filed 06/13/2005 have been fully considered but they are not persuasive. The reasons for non-persuasiveness are set forth below.

The Applicant presents the following argument(s) *[in italics]*:

The Applicant suggests that it is questionable whether and why the skilled artisan would look to supplement the teaching of the Levi primary reference. Considering what are the essential features of each of the inventions in these patents, the skilled artisan would not instinctively take the isolated disclosures of "logout" and the "logout anomaly detector" of Rowland and add it to the overall teaching of the Levi reference. The Applicant also suggests that there is no suggestion in Levi that his system as disclosed is unsuitable which would warrant the combination with the Rowland reference. The Applicant suggests it is unlikely that the person skilled in the art would use Rowland in combination with Levi, and vice versa. The lack of appropriate

Art Unit: 2144

commonality of the disclosures in the two inventions cited as prior art as applied to the present invention serves to rebut the rejection of the claims under 35 U.S.C. 103.

The Examiner notes many common features between Levi and Rowland. In Column 27 Lines 5-10 and Column 28 Lines 25-25 Levi disclosed of a theft listening process and reporting that a monitored device has been stolen. In Column 12 Lines 35-45 Levi describes a login procedure which serves to prevent unauthorized users from gaining access to the system. In Column 1 Lines 5-10 and Column 2 Lines 65 Rowland describes an intrusion detection system with real-time session monitoring for login and logout procedures and detecting normal user behavior patterns.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

The Examiner notes that in Rowland Column 2 Lines 10-35, Column 2 Lines 45-55, Column 9 Lines 40-55 Rowland describes several desirable features, stating 'great benefit if you have an eclectic user base who work strange hours or login from multiple time zones'. In Levi Column 33 Lines 45 Levi states that the operations center could

Art Unit: 2144

encompass several locations to serve different geographical area. Thus the Examiner concludes that Levi would have been highly motivated to look for disclosures regarding monitoring systems and incorporate additional features such as presented by Rowland.

The Applicant presents the following argument(s) *[in italics]*:

The Applicant suggests there is no suggestion in Levi that warrants its combination with Rowland and Lambert.

The Examiner notes many common features between Levi and Rowland. In Column 27 Lines 5-10 and Column 28 Lines 25-25 Levi disclosed of a theft listening process and reporting that a monitored device has been stolen. In Column 12 Lines 35-45 Levi described a login procedure which serves to prevent unauthorized users from gaining access to the system. In Column 1 Lines 5-10 and Column 2 Lines 65 Rowland described an intrusion detection system with real-time monitoring for login and logout procedures.

The Examiner notes that in Rowland Column 2 Lines 10-35, Column 2 Lines 45-55, Column 1 Lines 60-65, Column 9 Lines 40-55 Rowland describes several desirable features, stating 'great benefit if you have an eclectic user base who work strange hours or login from multiple time zones'. In Levi Column 33 Lines 45 Levi stated that the operations center could encompass several locations to serve different geographical areas. Thus the Examiner concludes that Levi would have been highly motivated to

Art Unit: 2144

look for disclosures regarding global monitoring systems and incorporate additional features such as those presented by Rowland.

The Examiner notes that Rowland Column 2 Lines 20-25, Column 2 Lines 45-55, Column 3 Lines 50-65, Column 7 Lines 55-65, Column 9 Lines 20-35 Rowland described establishing and detecting normal or suspicious user behavior by comparing real-time behavior with dynamically built user signatures and other unique user patterns. In Lambert Column 2 Lines 10-15 Lambert described a more advanced system for authenticating users using biometric information. Thus the Examiner concludes that a person of ordinary skill in the art, upon having combined Levi and Rowland, would have been motivated to look for other means to acquire or detect said unique user patterns such as those presented in the smart card system by Lambert, and implement said combination of Levi, Rowland, and Lambert.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2144

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571)272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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